

Geoffrey Cudworth
45 Lockwood Terrace, Apt. 105
West Hartford, CT 06119

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

State of Connecticut
Department of Public Health
vs.
Geoffrey Cudworth, L.P.N.
Licensed Practical Nurse License No. 010532
Respondent.

CASE PETITION NO. 971120-011-030

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing ("the Board") was presented by the Department of Public Health ("the Department") with a Statement of Charges and Motion for Summary Suspension dated December 3, 1997. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Geoffrey Cudworth, L.P.N. ("respondent") which would subject respondent's Licensed Practical Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of respondent presented a clear and immediate danger to public health and safety. On December 7, 1997, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that the Licensed Practical Nurse license of respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges Dept. Exh. 1.

The Board issued a Notice of Hearing dated December 17, 1997, scheduling a hearing for January 7, 1998, Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against him. The Notice of Hearing and Statement of Charges were delivered by Deputy Sheriff to respondent on December 19, 1997. Bd. Exh. 1.

On January 6, 1998, the Board was presented with a First Amended Statement of Charges. Dept. Exh. 2.

Upon respondent's request, the hearing was continued from January 7, 1998 to March 18, 1998 (Bd. Exh. 2-1); from March 18, 1998 to May 20, 1998 (Bd. Exh. 2-5, 6); and, from May 20, 1998 to June 3, 1998 (Bd. Exh. 2-3, 4).

The hearing took place on June 3, 1998, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Attorney Judith Lederer represented the Department. Respondent appeared and was represented by Attorney Barbara Collins. Respondent verbally Answered the Amended Statement of Charges during the hearing on June 3, 1998. Tr., June 3, 1998, pp. 2, 10-12.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Geoffrey Cudworth of West Hartford, Connecticut is, and has been at all times referenced, the holder of Connecticut licensed practical nurse license number 010532. Dept. Exh. 2; Tr., June 3, 1998, p. 10.
2. Pursuant to a Consent Order, entered into on or about August 16, 1983, respondent's license was suspended for one year for violating the provisions of §20-99(b) of the Connecticut General Statutes by unlawfully diverting an unspecified amount of Promethazine while on duty as a licensed practice nurse at Buckley Convalescent Home, Hartford, Connecticut in April 1983. Dept. Exh. 1:B1-3.
3. Pursuant to a Consent Order, entered into on or about June 12, 1991, respondent was reprimanded for wrongfully taking \$15.00 from a purse kept in a medication room. Said conduct occurred while respondent was working as a licensed practical nurse at Mediplex of Wethersfield, Wethersfield, Connecticut in February 1990. Dept. Exh. 1:C1-3.
4. At all relevant times referenced in the Statement of Charges, respondent was employed as a licensed practical nurse at Countryside Manor, Bristol, Connecticut. Dept. Exh. 2; Tr., June 3, 1998, p. 10.
5. Respondent was repeatedly counseled and/or received disciplinary action by his supervisors at Countryside Manor for his failure to properly document and/or administer medication to patients. Dept. Exh. 3:1-16.

6. On July 14, 1997, when the State of Connecticut, Department of Consumer Protection Drug Control Division did a routine drug destruction at Countryside Manor, it was discovered that respondent, from at least April 1997 through September 3, 1997, failed to properly document nearly all the doses of the controlled substance Acetaminophen #3 with Codeine, and other controlled substances, that he administered to patients. Dept. Exh. 1:A-3-5.
7. On or about September 8, 1997, after six oral and/or written warnings in the previous six months, respondent was discharged from Countryside Manor for his inability to perform and to correctly pass and document medication administered to patients. Dept. Exh. 3:2.
8. On or about December of 1996 until approximately August of 1997, while working as a licensed practical nurse at Countryside Manor, respondent:
 - a. diverted Acetaminophen #3. Dept. Exhs. 1:A-3-42; 3:1-6, 8; Tr., June 3, 1998, pp. 10-11, 15.
 - b. failed to completely, properly, and/or accurately document medical or hospital records. Dept. Exhs. 1:A; 2; 3:1-6, 8; Tr., June 3, 1998, pp. 10-11, 15.
 - c. falsified one or more Controlled Substance Receipt Records by not properly documenting Controlled Substance Receipt Records. Dept. Exhs. 1-A; 3:1-2.
9. Respondent engaged in unsafe nursing practice and/or failed to maintain acceptable standards of nursing practice in the following ways:
 - a. He failed to consistently document medication administered to patients. Dept. Exhs. 1:A; 2; 3:1-6, 8; Tr., June 3, 1998, pp. 10-11, 15..
 - b. He left medication carts open with medication on top of the unsupervised cart. Dept. Exh. 3; Tr., June 3, 1998, p. 12.
 - c. He prepoured medications which were then left in an unsupervised setting. Dept. Exh. 3; Tr., June 3, 1998, pp. 12-13.
 - d. He left uncapped needles and syringes on top of the sharps container in an unsupervised manner. Dept. Exhs. 1:A-6; 2; 3:11-12; Tr., June 3, 1998, pp. 12, 15, 33.
10. Respondent is not currently capable of performing his duties. Dept. Exh. 3:2; Tr., June 3, 1998, pp. 16, 27,36; Resp. Exh. G.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:

Geoffrey Cudworth, held a valid Licensed Practical Nurse license in the State of Connecticut at all times referenced in the Statement of Charges and First Amended Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by the General Statutes of Connecticut §4-177(a) and (b), and §4-182(c). The hearing was held in accordance

with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and First Amended Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by the General Statutes of Connecticut §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

COUNT ONE PARAGRAPH 3 of the First Amended Statement of Charges alleges that on or about December 1996 until approximately August of 1997, while working as a licensed practical nurse at Countryside Manor, Bristol, Connecticut, respondent:

- a. diverted Acetaminophen #3, Propoxyphene with APAP; Clorazepate; Hydrocodone with APAP; Ativan; Valium and/or Klonopin;
- b. failed to completely, properly, and/or accurately document medical or hospital records; and/or,
- c. falsified one or more Controlled Substance Receipt Records.

Respondent admits Paragraph 3b but he denies Paragraphs 3a and 3c. Tr., June 3, 1998, pp. 10-11.

Based on its review of the Respondent's testimony and the documentary evidence presented, the Board concludes that respondent diverted the controlled substance Acetaminophen #3; failed to completely, properly, and/or accurately document medical or hospital records; and falsified one or more Controlled Substance Receipt Records.

COUNT ONE PARAGRAPH 4 of the First Amended Statement of Charges alleges that in or about December 1996 through at least August of 1997, respondent abused or utilized to excess the medications referenced in paragraph 3a.

COUNT ONE PARAGRAPH 5 of the First Amended Statement of Charges alleges that respondent's abuse of controlled substances may effect his practice as a licensed practical nurse.

Respondent denies the charges in paragraphs 4 and 5. Tr., June 3, 1998, pp. 10-11.

The Board concludes that the Department did not present sufficient evidence to meet its burden of proof by a preponderance of the evidence, to prove the allegations in paragraphs 4 and 5 of Count One. Therefore, paragraphs 4 and 5 of Count One are dismissed.

COUNT TWO PARAGRAPH 8 alleges that respondent engaged in unsafe nursing practice and/or failed to maintain standards of nursing practice in that he failed to consistently document medication administered to patients; left medication carts open with medication on top of the unsupervised cart; prepoured medications which were then left in an unsupervised setting; and/or, left uncapped needles and syringes on top of the sharps container in an unsupervised manner.

Respondent admits these charges, and substantial evidence was presented to prove each of these allegations. Dept. Exhs. 1:A-6; 2; 3:11-12; Tr., June 3, 1998, pp. 12, 15, 33.

Based on its review of the evidence presented, the Board concludes that respondent is not competent to properly administer medications. Respondent does not deny this incompetence. Instead, he admits that in looking for a quick way of getting something done he "screwed up." Countryside Manor attempted on at least two occasions to provide one on one basic training for respondent to help him in the areas of medication administration and documentation (Tr., June 3, 1998, pp. 18-19). However, these attempts were unsuccessful. Respondent's employment was terminated by Countryside Manor on September 8, 1997, citing six warnings over a six month period and the final determination that respondent was unable to correctly pass medication or document its administration. Dept. Exh. 3:2

Moreover, respondent's psychologist opined and respondent agreed that respondent should not be practicing nursing at this time. Resp. Exh. G; Tr., June 3, 1998, p. 16.

The General Statutes of Connecticut §20-99 provide in relevant part:

(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17 . . . (b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following: . . . (2) illegal conduct, incompetence or negligence in performing usual nursing functions . . .

Based on its findings, the Board concludes that respondent's conduct as alleged in Count One, Paragraphs 3a as it relates to Acetaminophen #3, 3b, and 3c; and Count Two, Paragraph 8 of the First Amended

Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes violations of the General Statutes of Connecticut §20-99(b)(2). Therefore, respondent's licensed practical nurse is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

In determining appropriate sanctions in this matter the Board may consider, in addition to the charges upon which there is a finding of guilt, any evidence presented during the hearing which is relevant to the respondent's ability to practice nursing in accordance with the accepted standards of the nursing profession.

Based on the testimony and evidence submitted by both the Department and respondent, the Board concludes that respondent has a history of being unable to correctly administer and document the administration of medications. He has taken courses and has been provided a one on one basic training by his employer with no indication of improvement. Therefore, the Board concludes respondent is not competent to administer medications.

Order

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. That for Count One, Paragraphs 3a as it relates to Acetaminophen #3 with Codeine, 3b, 3c, and for Count Two, Paragraph 8 of the First Amended Statement of Charges, respondent's licensed practical nurse license, No. 010532, is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs respondent, Geoffrey Cudworth, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Wethersfield, Connecticut this 7th day of April 1999.

BOARD OF EXAMINERS FOR NURSING

By 